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NOTE BY THE SECRETARY-GENERAL

The Secretary-General has the honour to transmit to the members of the Security Council the attached communication of 1 March 1994, which he has received from the Director General of the International Atomic Energy Agency (IAEA).

Annex

Letter dated 1 March 1994 from the Director General
of the International Atomic Energy Agency addressed
to the Secretary-General

I refer to my letters of 16 September (S/26456), 11 October (S/26456/Add.1) and 3 December 1993 (S/26456/Add.2). Pursuant to the Security Council's request in its resolution 825 (1993), these letters covered reports to the Council on the Agency's efforts to implement the Safeguards Agreement between the International Atomic Energy Agency and the Democratic People's Republic of Korea.

I now attach a further addendum, covering developments since early December 1993, and should be grateful if it could be brought to the attention of the Security Council.

(Signed) Hans BLIX
Director General

Appendix

Addendum dated 1 March 1994 to the report by the Director General of the International Atomic Energy Agency to the Security Council on the implementation of the Agreement between the Government of the Democratic People's Republic of Korea and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons

I. SUMMARY

1. In his last report to the Security Council on the implementation of the Agreement between the Government of the Democratic People's Republic of Korea and the International Atomic Energy Agency (IAEA) for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (S/26456/Add.2) transmitted on 3 December 1993, the Director General *inter alia* referred to his statement to the IAEA Board of Governors on 2 December, in which he had said that the safeguards system that was in place on declared nuclear material and installations in the Democratic People's Republic of Korea could not be said to provide any meaningful assurance of the peaceful use of those installations and that material. That was not however to say that the system could not, with renewed efforts, be fully or partially restored, if cooperation was forthcoming from the Democratic People's Republic of Korea. Against that background, the Director General also stated that the Agency was ready to send an inspection team to the Democratic People's Republic of Korea to perform a full range of inspection activities that had been indicated in detail to the Democratic People's Republic of Korea and were of the same kind as those undertaken about a year previously without objections by the authorities of the Democratic People's Republic of Korea. The Director General added that the specified inspection activities went far beyond maintenance activities but did not include the question of additional information and visits to additional locations, about which the Agency was mandated to consult separately with the Democratic People's Republic of Korea.

2. Following discussions between the Democratic People's Republic of Korea and the United States of America in December, the authorities of the Democratic People's Republic of Korea indicated to the Agency at the beginning of January that they were ready to accept inspection of declared nuclear material and installations in the Democratic People's Republic of Korea required to provide "the continuity of safeguards". Since then several detailed rounds of working-level discussions have taken place in Vienna between Agency officials and representatives of the Democratic People's Republic of Korea's Permanent Mission about activities to be performed by the Agency during the next inspection in the Democratic People's Republic of Korea at the seven declared facilities. While the discussions have not brought agreement about the formal basis of the inspection, a detailed list of inspection activities that the Agency requested be performed at the next inspection has been established and accepted.

3. During the discussions and in its talking points, the Democratic People's Republic of Korea has referred to what it terms the "unique situation" of the

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Democratic People's Republic of Korea under the Non-Proliferation Treaty, a situation in which the Democratic People's Republic of Korea has itself defined what inspection activities are necessary to ensure "continuity of safeguards". The Agency has reiterated that it is only for its secretariat, acting in conformity with a relevant safeguards agreement and accountable to the Board of Governors, to determine which inspection activities are required to meet its technical requirements. The safeguards system consists of many interrelated components that are designed together to give assurance of the peaceful use of nuclear installations and material. "Continuity of safeguards" is therefore the continuity of the safeguards system.

4. The discussions between the Democratic People's Republic of Korea and the secretariat have centred on technical requirements. The Agency has listed in detail all the inspection activities that it needs to carry out. It has made clear that, although the scope of the inspection that the Agency now needs to perform is not open to negotiation, the secretariat is always ready to clarify to a party why each specific inspection activity is necessary and what it will consist of. It has done so to the Democratic People's Republic of Korea both orally and in writing.

5. The Agency has indicated that the aim of the next inspection is the acquisition of sufficient data to enable it to verify that there has been no diversion of nuclear material at the seven declared facilities since the earlier inspections and to take such measures as are needed to allow future verification of non-diversion. While the Democratic People's Republic of Korea has only implicitly accepted the latter part of the inspection objective, which involves the maintenance of video cameras and the application of seals, it has explicitly accepted the first part.

6. On 15 February 1994, following the explanations and clarifications provided by the Agency during discussions, the Democratic People's Republic of Korea transmitted a detailed list of inspection activities that it was ready to accept at seven facilities, a list of activities that corresponds to the Agency's request.

7. The Director General reported to the Board of Governors at its meeting on 21 February. Referring to the next inspection in the Democratic People's Republic of Korea, he said that, for the inspection actually to take place, the understanding reached on 15 February needed to be followed up by customary cooperation regarding the entry and work of the inspectors. In this respect, a telex of 21 February just received from the Democratic People's Republic of Korea expressed the hope that the inspection would take place "at an early date". The Director General added that it appeared from the telex that the authorities of the Democratic People's Republic of Korea were linking the date of the receipt of the IAEA inspection with the dates of "a number of specific action measures" related to currently expected contacts between the United States and the Democratic People's Republic of Korea. He expressed the hope that the inspection would materialize very soon and that he would in due course be able to report to the Board on its results.

8. As of 23 February when the Board of Governors of IAEA concluded a regular session, visas for the inspection team had not yet been issued and the Chairman

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of the Board concluded that, if a firm early date for the start of the inspection had not been settled by the end of the month (February), the Director General should immediately convene a Board meeting.

9. On Saturday 26 February visas were issued and the inspectors departed, scheduled to arrive in Pyongyang on 1 March to begin the inspection of the seven declared nuclear facilities in the Democratic People's Republic of Korea.

10. It must be noted that the inspection activities which the Agency and the Democratic People's Republic of Korea agreed on relate to the seven nuclear facilities declared by the Democratic People's Republic of Korea. They do not address the need for access to additional information and locations nor do they address other activities required to verify the completeness of the Democratic People's Republic of Korea's initial inventory of nuclear material and facilities.

II. CHRONOLOGY

11. The following describes developments over the implementation of the Democratic People's Republic of Korea's Safeguards Agreement with the Agency since the Director General's report of 1 December and oral report to the Board.

12. On 2 December 1993, the Board shared the Chairman's summing-up, according to which the Board "expressed support for the efforts of the Director General and the secretariat for implementation of the agreement recorded in INF/CIRC/403, which remains in force", and endorsed the Director General's view that "safeguards activities are a whole, not a list of options from which States can select individual elements and reject others". It asked the Director General "to keep the Board informed of developments at its next meeting and also to continue to keep the Secretary-General of the United Nations informed."

13. Pursuant to this request of the Board and further to his communications of 16 September and 11 October 1993 to the United Nations Secretary-General (S/26456 and Add.1), the Director General on 3 December transmitted a further update of developments on the Democratic People's Republic of Korea to the Secretary-General (S/26456/Add.2). He asked that it be brought to the attention of the Security Council.

14. On 7 December 1993, the Deputy Director General for Safeguards, in a telex to Director Choi of the Department of External Relations at the Democratic People's Republic of Korea's Ministry for Atomic Energy referred to the Board's discussion about the implementation of the Democratic People's Republic of Korea-IAEA Safeguards Agreement at its December meeting, during which the Agency's views on the resumption of inspection activities, as specified in the Agency's telex of 8 September 1993, had been fully reaffirmed. He said that those inspection activities "are overdue and necessary to halt the further deterioration of relevant safeguards data". He added that other activities had also become necessary "in view of the failure of surveillance and containment devices." These activities included "verification of discharged fuel at the SMW reactor as well as activities for the verification of operational data and status of both the reactor and the radiochemical laboratory."

15. The Deputy Director General for Safeguards reiterated that those activities "must be viewed as an integral whole", said that they "must be performed to provide assurance of the peaceful use of declared nuclear installations and material", and also that the scope of these activities "flows directly from the mandate of the Agency and is not subject to any negotiation." In conclusion, the Deputy Director General expressed his hope that the clarification provided would enable the inspectors "to resume inspections in the Democratic People's Republic of Korea". He confirmed that the Agency "remains ready at any time to consult with a delegation from the Democratic People's Republic of Korea on any of the outstanding safeguards issues".

16. In "talking points" handed over on 20 December, the Democratic People's Republic of Korea indicated its stand "to resolve even the IAEA-related issues within the frame of Democratic People's Republic of Korea-United States talks," an approach which "comes from past lessons." The Democratic People's Republic of Korea stated that "both the Democratic People's Republic of Korea and the United States sides have [their] own tasks to fulfil. The United States should remove the nuclear threat posed on the Democratic People's Republic of Korea and give up its hostile policy towards the Democratic People's Republic of Korea, and the Democratic People's Republic of Korea should provide transparency of its nuclear activities through the Agency inspections." The Democratic People's Republic of Korea had put forward "a package solution". "If the Democratic People's Republic of Korea accepts the Agency technical inspection for maintaining the continuity of safeguards and if the United States stops military exercise 'Team Spirit 94', the third stage of Democratic People's Republic of Korea-United States talks might be held; ... If both sides accept a formula of package solution at the third stage of Democratic People's Republic of Korea-United States talks, the Democratic People's Republic of Korea will accept the Agency's full inspection and hold a consultation with IAEA to resolve the partiality issues. At that time, the Democratic People's Republic of Korea's Non-Proliferation Treaty status will not be questioned."

17. The Democratic People's Republic of Korea further indicated that "the Democratic People's Republic of Korea is ready to open its seven facilities, included in the initial report, and to accept the Agency's technical inspection required to maintain the continuity of safeguards." With regard to the experimental nuclear power plant and the radiochemical laboratory, "it [Democratic People's Republic of Korea] is ready to allow the Agency to monitor its operation by replacement of surveillance equipment, as done in May and August of this year [1993]". As to additional inspections required by the Agency "to recover the period in which the surveillance equipment was out of operations, the Democratic People's Republic of Korea is ready to discuss and permit, within a reasonable scope, more inspection activities required. ... These inspections do not result from the legal obligations under the Safeguards Agreement but are, exclusively, technical inspections permitted to provide the continuity of safeguards. In fact, the Democratic People's Republic of Korea's Non-Proliferation Treaty status is at present an extraordinary one."

18. On 7 January 1994, a representative of the Democratic People's Republic of Korea Mission called on the Director of the Operations Division responsible for the Democratic People's Republic of Korea within the Department of Safeguards and presented further talking points, which can be summarized as follows:

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(a) The Democratic People's Republic of Korea's views on matters related to IAEA had been set out in its talking points of 20 December 1993 and remained unchanged;

(b) The Democratic People's Republic of Korea was ready to accept inspection required to provide for the continuity of safeguards:

(i) "For the five facilities (critical assembly, sub-critical assembly, IRT research reactor, fuel fabrication plant, fuel storage facility) full inspection is permitted;

(ii) For the experimental nuclear power plant and the radiochemical laboratory, the replacement of surveillance devices and seals is permitted as before";

(c) Additional inspections, which "may be required to remedy the gap during which the surveillance equipment failed to operate, will be arranged in such a way as to provide sufficiently the continuity of safeguards information and will be realized through consultations;"

"Since the scope of additional inspections is a technical matter it is preferable to discuss and resolve it on the spot between the operators and inspectors."

19. The Director of the relevant Safeguards Division responded inter alia that:

(a) The Agency was ready to discuss the technical requirements for an inspection. It needed to carry out inspections according to its safeguards technical criteria at facilities mentioned in the Democratic People's Republic of Korea's talking points. Given the Democratic People's Republic of Korea's position about full inspection at five of those facilities, the Agency did not foresee difficulties about them. However, it also needed to perform all the technically required inspection activities at the experimental nuclear power plant and the radiochemical laboratory, including, but not limited to, inspection activities related to containment and surveillance;

(b) As for the Democratic People's Republic of Korea's suggestion about "on-the-spot" discussions between operators and inspectors, the Agency would prefer to reach clear agreement in advance in Vienna concerning all activities to be carried out at the seven declared facilities.

20. On 10 January 1994, and following the meeting held with the Democratic People's Republic of Korea representative on 7 January, the Agency gave the Democratic People's Republic of Korea's Permanent Mission, at its request, a detailed written list of all the activities that the Agency needed to carry out at the Democratic People's Republic of Korea's seven declared facilities and which had been described orally at the meeting on 7 January. The stated objective of the inspection was "the acquisition of sufficient data to enable the Agency to verify that there has been no diversion of nuclear material since the earlier inspection and to take such measures as are needed to allow for the verification of non-diversion."

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21. On 17 January, a further meeting took place between the Democratic People's Republic of Korea Mission and the Agency representatives. The Democratic People's Republic of Korea representative presented and handed over talking points, giving the views of the Democratic People's Republic of Korea authorities on the recent consultations between their representative and Agency officials:

(a) The Democratic People's Republic of Korea authorities considered that "the recent consultations between the Democratic People's Republic of Korea and the Agency are being held in accordance with the agreement between the Democratic People's Republic of Korea and the United States", in keeping with which they had agreed "to provide the continuity of safeguards adequate to the extraordinary Non-Proliferation Treaty circumstances of the Democratic People's Republic of Korea";

(b) This inspection "should be aimed to verify non-diversion of nuclear material from the nuclear facilities since the last inspection".

22. The talking points listed all the inspection activities which the Democratic People's Republic of Korea was ready to accept based on its earlier talking points of 7 January and the Agency's of 10 January. However, the Democratic People's Republic of Korea did not express agreement with the full list of activities which the Agency regarded as indispensable to achieve the objective of the inspection.

23. The Director of the Division of Safeguards Operations (A) responded to the Democratic People's Republic of Korea's talking points by explaining in detail the technical reasons why each of the activities in the Agency's list of 10 January had to be carried out.

24. These oral explanations and clarifications were followed on 19 January with written ones. The talking points also made clear that all the activities in the Agency's communication of 10 January to the Democratic People's Republic of Korea were essential to the objective of the inspection.

25. The Agency regretted that, although the Democratic People's Republic of Korea had accepted some of the inspection activities, it had not accepted others. The Democratic People's Republic of Korea's talking points had referred to an agreement between the Democratic People's Republic of Korea and the United States, under which the Democratic People's Republic of Korea would accept inspection by IAEA. While that was positive, it was for the IAEA secretariat, accountable to the Board of Governors, to determine the scope and content of an inspection. Although the Democratic People's Republic of Korea had the same view as the Agency on the objective of the forthcoming inspection, there remained differences and misunderstandings. The Agency was "always ready to clarify to a party why specific safeguards activities are required," in order to have the understanding of the party to the activities. It was not ready, however, to "perform an inspection which, in its considered view, is not adequate to effectively achieve its stated objective."

26. Against that background, the Agency's talking points reiterated the inspection activities required. Where the Democratic People's Republic of Korea

had not agreed to an activity, the Agency provided further clarifications, focusing, on the cases where there was loss of continuity in containment and surveillance application, on the activities needed in order to re-establish the continuity of knowledge about the nuclear material and facilities.

27. The talking points of 19 January 1994 also made clear that the inspection activities listed in the Agency's letter of 10 January 1994 were limited to the seven nuclear facilities declared by the Democratic People's Republic of Korea. They did not address the need for access to additional information and sites or other activities required to verify the completeness of the initial inventory of nuclear material and facilities in the Democratic People's Republic of Korea. These issues were to be taken up in future consultations between the Agency and the Democratic People's Republic of Korea.

28. On 24 January at a further meeting, the representative of the Democratic People's Republic of Korea's Permanent Mission conveyed his authorities' views, both orally and in writing, about the Agency's talking points of 19 January 1994. These were, inter alia, that "the Secretariat's proposal of 10 January 1994 goes beyond the objective of the present consultation and is the same as the scope of routine and ad hoc inspections under the Safeguards Agreement." The talking points further specified those inspection activities at seven facilities which the Democratic People's Republic of Korea was ready to permit.

29. At the meeting on 24 January and in talking points of 25 January given to the representatives of the Democratic People's Republic of Korea's Permanent Mission, the Agency made clear that its own views as to the formal basis and scope of the inspection were quite at variance with the Democratic People's Republic of Korea's views. The Agency inter alia described its understanding of the Democratic People's Republic of Korea's acceptance of specific inspection activities and expressed its concern that others had not been accepted, e.g. certain activities required to restore knowledge about the nuclear material and facilities in cases where there was interruption in the continuity of containment and surveillance applications.

30. The Agency asked for the Democratic People's Republic of Korea's confirmation of the Agency's understandings and requested the Democratic People's Republic of Korea to reconsider specific aspects of its position on required inspection activities. The talking points concluded by saying that, "subject to such actions by the Democratic People's Republic of Korea, the Agency will be in a position to initiate the inspection under discussion".

31. In a note of 2 February, the Permanent Mission of the Democratic People's Republic of Korea asked the Agency secretariat to circulate to all States members of the Board of Governors of IAEA a statement by a spokesman of the Foreign Ministry of the Democratic People's Republic of Korea of 31 January 1994 in Pyongyang.

32. In this statement, the Democratic People's Republic of Korea stated inter alia that "it is within the framework of the Democratic People's Republic of Korea-United States agreement and with our extraordinary patience and maximum tolerance that we have so far discussed with the IAEA secretariat the scope of

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the inspection intended to provide the continuity of the safeguards". However, "the IAEA secretariat has deliberately ignored the unique status of the Democratic People's Republic of Korea, which set a moratorium on its declared withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons, and tried stupidly to force full-scope inspections equivalent to the Democratic People's Republic of Korea's de facto return to the Treaty, inspections on which the Democratic People's Republic of Korea and the United States could reach an accord at their future talks, instead of the inspection designed for the continuity of the safeguards" (see S/1994/105, annex).

33. On 15 February, a further meeting took place between the Democratic People's Republic of Korea's Mission and Agency representatives at which the Democratic People's Republic of Korea's representatives conveyed their authorities' written response to the Agency's talking points of 25 January. This response inter alia reaffirmed the Democratic People's Republic of Korea's views on the basis and scope of inspection at the Democratic People's Republic of Korea's seven declared nuclear activities. These remained the same as in the Democratic People's Republic of Korea's talking points of 24 January. The response further contained a detailed list of the inspection activities to which agreement was given, a list which corresponded to the Agency's request, and included certain activities required to restore knowledge where containment or surveillance devices had failed.

34. In a telex of 15 February to Director Choi of the Department of External Relations at the Democratic People's Republic of Korea Ministry for Atomic Energy, the Deputy Director General for Safeguards referred to the discussions that had been taking place between the Democratic People's Republic of Korea and Agency representatives which "dealt with the inspection activities to take place during the forthcoming inspection in the Democratic People's Republic of Korea". He confirmed the Agency's views on the basis and scope of the inspection. He also said that "the forthcoming inspection of the declared nuclear material and facilities in the Democratic People's Republic of Korea aims at the acquisition of sufficient data to enable the Agency to verify the non-diversion of nuclear material since the earlier inspection and the taking of such measures as are needed to allow future verification of non-diversion, thereby ensuring continuity". He noted that the inspection activities requested by the Agency on 10 January 1994 had been accepted by the Democratic People's Republic of Korea following the clarifications provided by the Agency in its talking points of 19 and 25 January 1994. The telex concluded by underlining that it was important that the inspection started as soon as possible and proposed that Agency inspectors should leave Vienna on 20 February to start the inspection on 22 February. For that reason it was asked that visa arrangements be finalized in Vienna at the latest by 18 February.

35. At the Board of Governors' meeting on 21 February, the Director General drew the Board's attention to Director Choi's response of that date to the Deputy Director General's communication of 15 February. In his telex of 21 February, Director Choi said he thought it fortunate "that the Democratic People's Republic of Korea-IAEA consultations in Vienna from January 7 have finally produced agreement on the scope of inspection needed for maintaining the continuity of safeguards". The telex continued by saying that "we (Democratic People's Republic of Korea) hope that the Agency's inspection ... will take

place at an early date". However, "the date of receiving the Agency's inspection team is to be examined and finally determined at the soon expected Democratic People's Republic of Korea-United States contact in coordination with the date of a number of specific action measures to be taken. We hope that the Agency will understand this". Director Choi concluded by saying that the Democratic People's Republic of Korea was scheduled to meet the United States "in one or two days' time for discussion on the date of receiving the inspection team". Meanwhile, visa applications for inspection team members could be submitted to the Democratic People's Republic of Korea Embassy in Vienna.

36. On 23 February at the close of its discussion about the Democratic People's Republic of Korea, the Board of Governors shared its Chairman's summing up which reads as follows:

"The Board:

"Expressed its continuing, deep concern at the seriousness of the situation and its support for a negotiated, peaceful resolution of the nuclear and other security issues of the Korean peninsula;

"Also reiterated its support for the safeguards system;

"Expressed its appreciation and support for the Director General and his staff in this matter and reiterated its full confidence in the secretariat;

"Welcomed the agreement of 15 February between the Democratic People's Republic of Korea and IAEA (on inspection activities) and urged the Democratic People's Republic of Korea to cooperate further with the Agency;

"Noted that the agreement on inspection of seven declared facilities was only a first step towards resolution of all the nuclear issues, including that of full compliance by the Democratic People's Republic of Korea with its obligations under its Safeguards Agreement;

"Expressed concern that the inspectors had not yet been allowed to travel to the Democratic People's Republic of Korea. This inspection should take place in the very near future;

"Noted that a large number of Board members had asked the Director General immediately to convene a Board meeting in the absence of satisfactory developments in connection with the inspection, notably if a firm, early date for the start of the inspection had not been settled by the end of this month. It was the sincere hope of the Board that such a step would not be necessary."

37. On 26 February, Agency inspection team members received entry visas for the Democratic People's Republic of Korea through the Democratic People's Republic of Korea Permanent Mission in Vienna and departed with a schedule to arrive in Pyongyang on 1 March to begin the inspection of the seven declared nuclear facilities in the Democratic People's Republic of Korea.
